

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 858 of 2015

Sharad Kumar Patel Aged About 46 years S/o Shankarshan Patel Caste Aghariya,
R/o Village Birkol, Post Nawagarh, Block And Tahsil Saraipali, District Mahasamund,
(Chhattisgarh)

---- Petitioner

Versus

1. The Sub-Divisional Officer (Revenue)/ Prescribed Authority (Panchayat), Saraipali,
District Mahasamund, (Chhattisgarh)
2. Gajpati Patel S/o Narottam Patel Caste Aghariya
3. Budeshan Chouhan S/o Madhau Chouhan
4. Manohar Soni S/o Baedprakash Soni
5. Mohanlal Bariha S/o Heeralal Bariha
6. Lalit Kumar S/o Bhushan Prasad
7. Lalji Nishad S/o Chandi Prasad Nishad
8. Sohanlal S/o Hariram Sahu

Respondents No. 2 to 8 R/o Village Birkol, Post Nawagarh, Block And Tahsil
Saraipali, District Mahasamund, (Chhattisgarh)

---- Respondent

For Petitioner	:	Shri Goutam Khetrapal, Advocate
For Respondent No.2	:	Shri Vaibhav Goverdhan, Advocate

Order On Board

11/08/2015

Heard.

1. The election petition filed by the petitioner has been dismissed summarily vide impugned order dated 27.4.2015 by the Election Tribunal on the ground that the issue of improper acceptance of nomination paper of returned candidate on the ground of alleged disqualification could not be examined in the election petition, but the issue of disqualification can be decided only by the Collector.
2. Election of an office bearer of Panchayat can be called in question by filing an election petition under Section 122 of the of the Panchayat Raj Adhiniyam, 1993 (for

short “*the Act of 1993*”) and by no other means. The grounds on which election of an office bearer of Panchayat could be called in question have been exhaustively enumerated in Chhattisgarh Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 (for short “*the Rules of 1995*”). Rule 21 of the Rules of 1995 enumerates the grounds on which the election can be declared void. One of the grounds stated in clause (d) (i) of sub-section (1) of Rule 21 of the Rules of 1995 is that the result of the election in so far as it concerns returned candidate has been materially affected by improper acceptance of any nomination.

3. The ground on which the election of returned candidate has been challenged is that he was disqualified to hold the office and, therefore, his nomination was improperly accepted. This issue is required to be examined only by the Election Tribunal and no other authority once the election has been held. The impugned order dismissing the election petition is bad in law.
4. Accordingly, the petition is allowed. Impugned order dated 27.4.2015 is set aside. The matter is remanded to the Election Tribunal/SDO to decide the election dispute in accordance with the provisions of the Act of 1993 and Rules of 1995.

Sd/-

(Manindra Mohan Shrivastava)
Judge